

# **Minutes of a Regular Meeting January 16, 2003**

## **Town of Los Altos Hills City Council Regular Meeting**

Thursday, January 16, 2003, 6:00 P.M.  
Council Chambers, 26379 Fremont Road

### **1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

Mayor Fenwick called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Fenwick, Mayor Pro Tem Cheng and Councilmembers  
Kerr, O'Malley and Warshawsky  
Absent: None  
Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas,  
Planning Director Carl Cahill, City Engineer/Director of Public  
Works Mintze Cheng, Administrative Services Director Sarah  
Joiner, Assistant Planner Debbie Pedro and City Clerk Karen Jost  
Press: Sharon Noguchi, San Jose Mercury News and Scott Wong, Los  
Altos Town Crier

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by O'Malley and passed unanimously to limit the length of time for public comments to three minutes.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to add the following to the agenda as an urgency item:

New Business Item 6.2: A Resolution of the City Council of the Town of Los Altos Hills Urging the California Legislature to Reject the Governor's Proposed Shift of Local VLF Revenues and to Honor the 1998 Commitment to Restore the VLF

### **2. APPOINTMENTS AND PRESENTATIONS**

#### **2.1 Presentation by Rebecca Elliott – League of California Cities**

Rebecca Elliott, Regional Representative for the League of California Cities Peninsula Division, spoke to the Council on the new direction the League is taking to build a grassroots network with cities throughout the State. Their mission is to assist cities in protecting local revenues, maintaining control over their budgets and ensuring that cities are kept informed on pertinent legislation. Elliott urged the Council to adopt the resolution that was before them tonight as an urgency item. She added that the potential loss to the Town if the Governor's proposal to shift local VLF revenues is passed would be \$334,000 from the Town's General Fund.

## 2.2 Proclamation – PAARC Year of Preparedness

ADOPTED BY ACCLAMATION: Town of Los Altos Hills Proclamation 2003 – The Year of Preparedness.

## 2.3 Introduction of Captain Hirokawa & Lieutenant Frank Damiano – Santa Clara County Sheriff's Department

Commander Dennis Bacon, Santa Clara County Sheriff's Department, thanked the Council and City Manager Maureen Cassingham for their support and professionalism during his tenure with the Town of Los Altos Hills. Commander Bacon discussed the transition that is presently occurring within the Sheriff's Department and noted that with his recent appointment, he will no longer be the Chief of Police for the Town. He introduced Captain John Hirokawa, his replacement for Los Altos Hills, and Lieutenant Frank Damiano who will assist Captain Hirokawa.

Mayor Fenwick congratulated Commander Bacon on his recent promotion and welcomed Captain Hirokawa and Lieutenant Frank Damiano to Los Altos Hills.

## 3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that at the January 9, 2003 Planning Commission meeting, Lands of Huang, 24905 La Loma Court (243-01-ZP-SD), a request for a basement expansion and landscape/hardscape plan and Lands of AU, 12870 Robleda Road (239-02-ZP-SD), a request for a landscape screening plan were approved by the Commission. Lands of Korman, 26157 Altadena Drive (203-02-LLA), a request for a lot line adjustment, was continued to a future date to be determined.

## 4. CONSENT CALENDAR

Items Removed: 4.1 (Fenwick), 4.2 (Kerr) and Item 4.5 (Warshawsky)

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by O'Malley and passed unanimously to approve the remainder of the Consent Calendar, with Mayor Fenwick abstaining from Item 4.3:

- 4.3 Fast Track Application: approved by the Planning Director: Lands of Askari – Lot A, 27830 Elena Road, request for a new residence.
- 4.4 Resolution In Support of Creating a 2-1-1 Information and Referral Phone Number to Serve Santa Clara County Residents and Visitors – Reso #1-03

Items Removed:

4.1 Approval of Minutes: December 19, 2002 Regular Meeting

The Mayor directed the Clerk to review the meeting tape for accuracy regarding the statement of Jim Abraham, 12831 Viscaino Road and to correct the statement if necessary . For the record, the Mayor clarified what Abraham meant by his statement should read... “He questioned why the plumbing lines were to be capped according to the drawings if the home was to be demolished. He feels this represents they did not intend to demolish the home when the drawings were done.”

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by O’Malley and passed unanimously to approve the minutes of the December 19, 2002 Regular City Council Meeting as amended with the following correction: page 16, Council vote should read:

**AYES: Mayor Fenwick, Mayor Pro Tem Cheng, and Councilmembers Kerr and Warshawsky**  
**NOES: Councilmember O’Malley**  
ABSENT: None  
ABSTAIN: None

4.2 Approval of Warrants: \$236,963.86 (12/10/2002 – 01/08/2003)

Mayor Fenwick noted that on page 5 of the warrant list the project description should read Tracy Court Bridge. Councilmember Kerr asked for clarification from the Administrative Services Director regarding geologist charges on the warrant list. It was explained that Cotton Shires is the Town’s Geologist and their charges are billable to applicants.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by O’Malley and passed unanimously to approve the warrants of 12/10/02 – 01/08/2003 with the administrative correction of Tracy Court Bridge

4.5 Approval of Final Map, Lands of Kerns, 11888 Francemont Road Reso #2-03

Councilmember Warshawsky requested clarification from the City Attorney on the item before them. Steve Mattas explained the request for approval of the Final Subdivision Map was related to the Lands of Kerns. A Tentative Subdivision Map for the project was previously approved by Council and the Final Map is a requirement of the Subdivision Map Ordinance and State Subdivision Provisions. The Final Map must be submitted by the property owner to demonstrate that the project is in compliance with the conditions of approval and the approved Tentative Map. Town staff reviews the Final Map to ensure it is in compliance and sends it to Council for final action and approval.

Councilmember Kerr questioned the existence of a pathway or pathway easements on the Final Map. Planning Director Cahill stated the pathway easement was previously granted and the construction of the pathway is generally a condition of approval for a site development permit.

Councilmember Warshawsky asked the City Attorney how approval of this item would influence Item 12, the Closed Session. Mattas explained for the benefit of the public and Council that the Closed Session at tonight's meeting was for discussion of the litigation that has been brought against the Town regarding approval of the Kerns Tentative Map. Approval of the Final Map would have no impact on the Closed Session.

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by O'Malley and passed by the following vote:

AYES:	Mayor Fenwick, Mayor Pro Tem Cheng and Councilmembers O'Malley and Warshawsky
NOES:	None
ABSENT:	None
ABSTAIN:	Kerr

## 5. UNFINISHED BUSINESS

### 5.1 Update on Mayor's Goals

#### 5.1.1 New Town Hall – Committee Report

Mayor Fenwick noted that the report would be presented as Agenda Item 7.1.

#### 5.1.2 Undergrounding of Utilities – Committee Report

Councilmember Warshawsky reported to Council on the Undergrounding Committee's first meeting, which was held on January 15, 2003. Andrew Colman attended and presented an historical overview of the efforts of the previous committee. The new Committee's Charter was established. The members were surprised at the amount of misinformation that has been generated on the subject of undergrounding utilities and the Committee's initial efforts will be to disseminate correct information on undergrounding. This will enable the Town's residents to make an educated and informed decision regarding the issue. They will conduct a town-wide survey followed by dissemination of an informational pamphlet.

The Committee determined that it was necessary to answer the following questions: (1) What does it take to underground utilities? (2) What does it mean to underground? (3) What are the financial implications of undergrounding?

Warshawsky reported that three sub-committees were formed to resolve issues on engineering, marketing and finance. Councilmember Warshawsky added the Committee is planning to meet with representatives from the Town of Tiburon who have successfully undergrounded their utilities using a neighborhood assessment districts.

Mayor Fenwick, questioned if the Committee was considering the concept that had been approved by the Council for the Town to provide with financial assistance to neighborhoods

wishing to underground. Warshawsky noted the Committee was seeking citizen input on this subject and felt it was necessary to first educate the community on undergrounding of utilities.

Councilmember Kerr suggested the Committee should also look at the possibility of initiating undergrounding utilities on major roads. He would like to know the environmental consequences of such an undertaking.

#### 5.1.3 Master Pathway Map – Committee Report

Councilmember O'Malley reported this project would be completed in three stages. First, the pathway map that was produced by staff will be researched to address citizen's issues. All proposed pathway easements would be left on the map. This undertaking would be completed by a small group over a two to three month period with the goal of developing a pathway map that is deemed correct by everyone. The second stage, will be to disseminate the map and gather citizen input. The third, and final stage would be Council approval and adoption of the map.

Councilmember O'Malley added the Committee would be meeting in several weeks at Town Hall during the day to review deeds, possibly walk paths and address citizen's questions. Volunteers were encouraged to contact Councilmember O'Malley

Mayor Pro Tem Cheng asked staff to keep Council informed of all Committee meeting dates.

#### 5.1.4 View Protection Ordinance – Staff Report

Planning Director Carl Cahill informed Council that staff has researched this issue as directed by the Mayor. Cahill reported on the Tiburon View Ordinance as a possible model for Los Altos Hills. It first establishes the property owner's rights to maintain views or access to sunlight, that existed any time since they purchased or occupied a property, from unreasonable obstruction by the growth of trees. The Tiburon View Ordinance then sets up a process by which persons may seek restoration of such views or sunlight. Cahill noted the ordinance establishes criteria for what constitutes unreasonable obstruction of pre-existing views and a process for resolving obstruction disputes. Citizens are initially advised to talk with their neighbors regarding the offending trees and if this fails, mediation is suggested. Cahill added the Town could use L.A.M.P.S for the mediation stage. If mediation is declined or fails, the complaining party must prepare a Tree Claim and offer to submit the dispute to binding arbitration. The last recourse the property owner has is litigation.

The Planning Director added the Town's Heritage Oaks would, of course, be protected from removal.

Cahill stated that a similar ordinance for the Town would be advantageous. The ordinance deems that the property owners are responsible for settling the view disputes. It is also intended to keep the Town from incurring significant legal expenses in resolving issues between neighbors. Cahill has spoken with the Planner in Tiburon and most complaints are settled with initial reconciliation between neighbors. Cahill feels the foremost disadvantage to the ordinance is it may require the complaining party to incur litigation expenses if their obstruction complaint cannot be resolved through reconciliation or mediation.

Staff recommended that the Town try a similar ordinance with modifications that would be appropriate for the Town

Councilmember Kerr asked if other issues, like fences and the siting of a home, could be addressed by this ordinance.

Cahill responded that neighbor's views are considered when the siting of a home is being reviewed. He added that this issue can be subjective and possibly Council would like to start with landscaping as a view obstruction and then direct staff to return with an analysis of new construction as a view hindrance and whether to strengthen existing ordinances on this matter.

Cahill added the fence ordinance had been reviewed by a committee approximately six months ago and, at that time, there had been a Town-wide mailing addressing the issue. There was little interest from the residents and, until recently staff, had never received a complaint regarding an intrusive fence interfering with a view. He suggested that language could be added to the existing fence regulations to address view issues.

Councilmember Kerr acknowledged he liked the procedure of placing the responsibility for resolving the dispute between neighbors on them and eliminating the Town from becoming involved.

Mayor Fenwick suggested the Tiburon View Ordinance, which only applies to landscaping interfering with views and sunlight, could easily be modified to conform to the Town's needs and be adopted in the near future. He felt that the addition of fences could delay this consideration..

Councilmember O'Malley suggested staff should stay focused on the Mayor's goal and create a view ordinance in reference to landscaping and revisit the other issues in the future.

Mayor Pro Tem Cheng added that siting of a house could complicate the view ordinance. As a Planning Commissioner, she always studied the impact of the house on the neighbor's view carefully and never approved a house that obstructed 100 percent of a view, but in reality some view is always affected.

Councilmember Warshawsky asked staff to research similar communities like Woodside and Portola Valley for view ordinances.

Planning Director Cahill then discussed the procedure for adopting the ordinance. The next step is for staff to to modify the Tiburon Ordinance to comply with the Town's Codes. It is then reviewed by the Planning Commission and sent to Council with a recommendation to adopt.

Mayor Fenwick added the Tiburon View Ordinance has been modified from the initial Ordinance in Tiburon and has had positive results in resolving view obstruction issues. The Ordinance has been litigated successfully before the Supreme Court. City Attorney Mattas added the model for the ordinance places the responsibility for resolving the issue with the neighbors and brings the court in as a last resort. The Ordinance provides the property owners with an enforceable right.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to direct the Planning Commission to draft an appropriate view protection ordinance using the Tiburon View and Sunlight Ordinance as a model.

- 5.2 Rescind Resolution No. 95-02 related to "A Resolution of the City Council of the Town of Los Altos Hills to Place Before the Voters of the Town of Los Altos Hills an Ordinance Adding Title 11, Chapter 7 to the Los Altos Hills Municipal Code Open Space Initiative".

City Attorney Steve Mattas explained to Council that by adopting the Citizen's Initiative at the last Council meeting, it was in the Council's jurisdiction to now rescind the prior Resolution that placed before the voters the Council sponsored Initiative to add Title 11, Chapter 7 to the Municipal Code.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to rescind Resolution No. 95-02 "A Resolution of the City Council of the Town of Los Altos Hills to Place Before the Voters of the Town of Los Altos Hills and Ordinance Adding Title 11, Chapter 7 to the Los Altos Hills Municipal Code Open Space Initiative".

### 5.3 Mora Heights Way Sewer Connection Request

City Engineer Cheng explained that Council had before them the additional requirements from LAFCO for an out of area agreement for sewer service. She added the applicant and his agent will be responsible for completing the documents for LAFCO.

Jim Abraham, 12831 Viscaino Road, expressed his disapproval of this project. He feels the Town has a limited number of sewer rights and by approving this connection, it will deprive a Town resident in the future of needed sewer service.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng to approve the out of agency sewer agreement with the property owner at 23270 Mora Heights Way and the Resolution authorizing the execution of the agreement.

## 6. NEW BUSINESS

- 6.2 Presentation of the Comprehensive Annual Financial Report (CAFR) for the Town of Los Altos Hills and the FY 01-02 Audit.

Administrative Services Director Sarah Joiner introduced this item to Council. Council had before them the draft CAFR for FY 2002. An audit has been conducted by the Town's auditor, A.J. Major of Vavrinek, Trine Day & Co. and the findings presented to the Finance & Investment Committee on January 6, 2003. The Committee reviewed the document and recommended that it be presented to Council for approval. The Comprehensive Annual

Financial Report for the Town is formatted into three sections – the introductory and statistical sections and the financial section, which includes footnotes. The introductory and statistical sections are produced by staff and not audited.

In the draft report before Council, Joiner explained, the auditor has expressed a qualified opinion based on the exclusion of General Fixed Assets (GFA). This is the same finding as in previous years. The GFA are those assets acquired by the Town for general governmental purposes and include all assets except those reported in the Enterprise or Internal Service funds. The Town Hall campus, the Corporation Yard facilities, and the Heritage House properties are included in the Internal Service Fund. Joiner added that sewer lines, equipment and vehicles are also included in the Enterprise and Internal Service Funds. In previous years, the Town's General Fixed Assets, which would include Town-owned properties other than those mentioned, have not been included in the CAFR. In accordance with generally accepted accounting practices, general fixed assets are reported at cost or market value, whichever is less, at the time of acquisition. Town-owned properties, including Westwind Barn, are reported as General Fixed Assets in this year's financial report. The amount reported in the draft is \$1,250,000. Staff has obtained information and documentation regarding the value of these properties at the time of acquisition from the Santa Clara County Assessor's office. Based on this information, the value should be reported as \$310,535.

With the inclusion of the GFA, the auditor will issue an unqualified opinion on our financial statements.

Joiner informed Council that the transmittal letter, part of the introduction of the CAFR, did include comments about state and federal economic conditions and how they might impact the Town. She added, the state budget deficit is so critical, the Town should anticipate and prepare for revenue shortfalls in the coming year.

City Manager Cassingham concurred with this evaluation and added our Town could be at risk of a potential shortfall of approximately \$550,000 over the next eighteen months.

Councilmember Kerr requested clarification of staff regarding property tax revenues. Joiner noted there is a possibility that the State may redirect part of the property taxes revenues to address the States fiscal crises.

Mayor Pro Tem Cheng added that residents have the option of requesting re-evaluation of their property assessments to reduce their taxes and this possibly would impact our revenues.

Councilmember O'Malley explained that with a shortfall of revenues the Town would have the option of cutting discretionary spending on capital projects but not staff as a cost-saving measure. O'Malley suggested a joint study session with Council and the Finance Committee to review which capital projects would be needed.

The City Manager noted that staff would be presenting a mid-year budget review and this would be an appropriate time to schedule a meeting.



Councilmember O'Malley congratulated Administrative Services Director Joiner on receiving an unqualified opinion from the auditor on the report.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to accept the Comprehensive Annual Financial Report Town of Los Altos Hills and the FY 01-02 Audit.

6.2 A Resolution of the City Council of the Town of Los Altos Hills Urging the California Legislature to Reject the Governor's Proposed Shift of Local VLF Revenues and to Honor the 1998 Commitment to Restore the VLF

City Manager Maureen Cassingham presented an overview of the urgency item before Council. Cassingham explained revenues derived from motor vehicle license fees have been directed to cities since their inception. Last week, the Governor proposed to shift the State's backfill of those fees to address the state's budget shortfall. This action could possibly impact the Town over the next eighteen months with a \$550,000 budget deficit. The resolution before Council is being presented to every City in the State for adoption. Cities are urging the Legislature to work with the League of California Cities to find other options and sources to reduce the deficit. Staff recommended Council approve the resolution this evening. It will then be forwarded immediately to the Legislature and League.

Councilmember Kerr remarked that adoption of the resolution would show solidarity with smaller communities who will have an even greater impact from the revenue shift.

The Mayor concurred that by supporting the resolution, it would represent solidarity with other communities and show the Council's disapproval of such actions by the Governor.

Councilmember O'Malley stated he could not support the item. It could result in a regressive tax and it was not the role of city government to be concerned with the budgets of other cities.

Councilmember Warshawsky added he would support the resolution noting that it protects the Town's revenues.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Cheng and passed by the following roll call vote to adopt A Resolution of the City Council of the Town of Los Altos Hills Urging the California Legislature to Reject the Governor's Proposed Shift of Local VLF Revenues and to Honor the 1998 Commitment to Restore the VLF. Reso #\_\_\_\_

AYES: Mayor Fenwick, Mayor Pro Tem Cheng, and Councilmembers Kerr and Warshawsky  
NOES: Councilmember O'Malley  
ABSENT: None  
ABSTAIN: None

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor Fenwick reported on the Emergency Communications Committee. He demonstrated the new Los Altos Hills emergency communications repeater (W6LAH) with one of the twenty new radios that have been distributed to amateur radio operators throughout Town. The repeater and radios were purchased by the Town and will be used for emergency communications. Transmission can be heard throughout Town and by County Communications Emergency Operations Center.

Mayor Fenwick also reported on the recent Santa Clara County Emergency Preparedness Council Meeting. All fifteen cities in the County are represented by a Councilmember. \$1.6 Million from FEMA and the Department of Justice funds have been distributed to member cities for equipment, planning and emergency training. The Town, due to its size, received approximately \$3000.

Mayor Pro Tem Cheng reported on her attendance at the Valley Transportation Agency meeting. Due to budget shortfalls, the VTA is planning transportation cuts. These will primarily impact light rail and bus routes. Cheng added the reductions will have little impact on the Town because of our limited needs for public transportation.

Councilmember O'Malley reported he had met with Supervisor Kniss last week to request assistance dealing with the proposed Santa Clara Valley Water District's projects slated for the Town. Kniss assigned an attorney staff member to work with the Town to reach an agreement on a modified solution for Adobe Creek Reach 5.

7.1 Report from City Council Committee on New Town Hall

Councilmember Kerr reported on the January 14, 2003 Special City Council Meeting of the New Town Hall Committee. He had prepared for Council a summary report of items of interest that were discussed. Kerr noted the Committee had chosen Kerr as Chair and Al Whaley as Vice Chair; set \$3.5 million as a total project target cost; solicitation of renderings from architects depicting four key design styles – Mission, Rural, Craftsman and Sustainable. These designs would be marketed to residents for comment and eventual community selection. The Committee would seek a budget of \$22,000 including a 10% contingency for the initial costs of architects renderings and the public information stage of the project.

Mayor Pro Tem Cheng noted it would be nice to include an area in the new Town Hall for donation recognition like a brick wall, patio area or fountain. Kerr added donations would be considered but are not included in the project cost budget.

Mayor Fenwick asked if landscaping was incorporated into the projected cost of \$3.5 million. Kerr responded landscaping was not included but might be an area to consider for donations or a community project but the Committee would like to see the total cost of Town Hall not to exceed \$3.5 million.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to authorize a budget of \$22,000 for the New Town Hall Committee.

8. STAFF REPORTS

8.1 City Manager

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

9.1 Discussion of Town Website

City Manager Cassingham summarized the development of the Town's website. In 2001, VPI. net was awarded Phase 1 of the project for website renovation at a cost of approximately \$7400. This included enhancements to the site and the updating of the homepage. Requests for additional site improvements, including a community calendar event page and the addition of staff reports from City Council and Planning Commission meeting packets are pending.

The Town is presently in discussion with their information technology support consultants, the City of Palo Alto, about obtaining assistance in simplifying the time-intensive process for uploading materials like staff reports on the website.

The current budget allocates \$12,500 for website expenses and to date approximately \$4,000 has been expended. Cassingham acknowledged that the present Town website is a work-in-progress and it is staff's goal to make it more user friendly and time sensitive. The City Manager thanked Council, Bill Kerns and other volunteers for their assistance.

Councilmember Warshawsky recommended that we outsource as much of the website work as possible. He noted that with the addition of new Council Sub-Committees, it is important to develop an easier method for keeping the site updated. He suggested the City Clerk be the interface between committees and the provider.

The City Manager noted staff would like to centralize the website project with Palo Alto and is presently in discussion to migrate the site and our email to them. Palo Alto is presently the website provider to the City of Los Altos, Atherton, East Palo Alto and their own community of Palo Alto. This enables them to be very cognizant of the Town's needs.

Councilmember Kerr would like to be able to access agendas and Council packets on the web. He feels more resources and effort should be directed to the website for time sensitive materials and reports.

#### OPENED PUBLIC HEARING

Patty Ciesla, 11990 Page Mill Road, explained for Council the process the County Parks and Recreation Commission uses for dispensing packets and informational reports to their Commissioners and the public including GIS data.

City Manager Cassingham noted, for Council information, that the County has in-house staff dedicated to information technology and providing this support.

Bill Kerns, 11888 Francemont Drive, suggested site plans could be photographed by a digital camera and uploaded to the website as an easy solution to providing maps from Council meeting packets on the Town site.

Jitze Couperous, 13680 Page Mill Road, gave his perspective on the project as a former website designer. He explained the fluid dynamics of meeting materials makes designing a format for uploading documents very challenging. It is not as unproblematic as it seems.

#### CLOSED PUBLIC HEARING

City Manager Cassingham requested direction from Council on their specific requests for the website, a timeline and cost parameters.

Councilmember Warshawsky added the website is an important tool for information distribution for our community and it will always be in flux and changing. He offered to work with the City Manager with the assistance of Duffy Price, Newsletter Editor and Community Relations Committee member.

#### 9.2 Possible Closure of Bullis School – Councilmember Kerr

Councilmember Breene Kerr requested this item on the agenda for the purpose of Council consideration of an appropriate action to motivate the Los Altos School Board to reconsider the closure of Bullis School.

City Attorney Steve Mattas had prepared for Council a memorandum regarding the Town's options should Bullis School be closed by the School District. He explained, if the District ceases to use the site for school purposes, the school would retain its R-A zoning designation and be available for residential uses consistent with the Town's zoning regulations. In addition, with the approval of the Planning Commission, the site may be used for the following: public libraries, churches and other places of worship, recreation facilities, public schools, private schools, fire and police stations, Town facilities, stables and meeting halls for nonprofit corporations. Should the School District decide to sell or lease the Bullis site, it would first be required to offer that portion of the site consisting of land used for outdoor recreational purposes to (1) the Town; (2) to any park and recreation district within the area; (3) to any regional park

authority having jurisdiction within the area; and to (4) the County of Santa Clara in that order. This ensures the recreational facilities will not be lost to the community.

Mattas explained that the Legislature has vested the ability to control issues related to the operation and maintenance of the school in the School Districts Board. The Council's options on the issue of closure are limited to their political influence as elected representatives of the community.

Councilmember Kerr urged the Council to attend the next scheduled meeting of the School Board on January 21, 2003 at Egan School. Kerr added that he also sympathizes with Town residents whose children attend Loyola Elementary in Los Altos and are facing the same issue of possible closure.

#### OPENED PUBLIC HEARING

Jim Abraham, 12831 Viscaino Road, informed Council the land had been donated by Gardner Bullis, a town resident, for a school. Abraham wondered if this could have any effect on the possible closure.

City Attorney Mattas explained, the deed is a public document and any reversionary interest would be easy to research but would only be relevant after the school was closed.

Councilmember O'Malley offered his support to keep Bullis open and stated he would attend the School District meeting on January 21 to express his support. O'Malley added the school is a valuable asset and an important part of the Town.

Craig Jones, 762 Edgewood – Los Altos, speaking on behalf of ABC parents group (Against Bullis Closure) addressed the Council. He explained the survey that was taken of the 263 Bullis school families reflected 99% in support of keeping the school open. Closure of Bullis would have numerous and varied impacts on the community including a possible reduction of property values, safety issues for the students crossing Foothill Expressway to attend another school and a change in the character of the Town without any neighborhood school.

Jones updated the Council on the School Board's recent statements. They only have operating funds for six elementary schools and will possibly close Bullis-Purissima/or Loyola School or reconfigure the boundaries for Loyola which could have an adverse effect on Loyola. The Board is scheduled to make their final decision on February 10<sup>th</sup>. The school selected would be closed Fall 2003. The criteria that has been developed to evaluate the schools appears to unfairly judge Bullis-Purissima. After repeated efforts to voice their concerns to the School District, ABC has decided it is time to hire a consultant. Thomas M. Griffin, J.D., Ph.D a former Chief Counsel for the California Department of Education who specializes in unifications and reorganizations has been recommended to the parent group. Jones requested Council consider hiring Thomas Griffin as a consultant to advocate for Los Altos Hills to keep the only public school in Town open. The estimated cost of his service is \$10,000.

Councilmember Kerr asked if the PTA is participating in the cost of the consultant. Jones said the hiring of a consultant is considered outside the scope of the PTA's organization charter and ABC is seeking the funding from the Town.

Councilmember O'Malley requested clarification from the City Attorney on what action could be taken at tonight's meeting by Council. Mattas explained due to the time urgency of this item, Council could schedule a Special Council Meeting with 24 hours prior notice or direct the City Manager, who has the standing authority to authorize expenditures up to \$5,000, to make an expenditure in the amount of \$5,000.

Councilmember O'Malley supported the expense, noting that the Town supports Little League and should be able to support keeping a school open since it appears to be a good investment.

Mayor Pro Tem Cheng asked for clarification from the speaker. She expressed her concern that Loyola School which also serves Los Altos Hills residents, could be closed.

Jones explained that Bullis is the only school in Los Altos Hills. Thomas Griffin is a consultant who specializes in resolving similar issues and looking for alternative solutions to school closures.

Mayor Fenwick asked if \$10,000 is really critical to saving Bullis School from closure and wondered if the parent community could fund the cost.

David Pefley, 26169 Mauer Lane, ABC member, articulated his concern for the traffic congestion that would be created by the closure of Bullis and shift of students to Loyola. He reiterated the parents' disillusionment with the District. Measure H was supported by the residents of Los Altos Hills and it clearly called for the renovation of schools and now the District is closing a school. Pefley added that the District is planning on renting the school facility they close. Renting the newly renovated Covington School, would be more beneficial financially to the District but it is not being considered for closure. Pefley hoped the Council would show their support to keep Bullis open by funding the cost of the consultant.

John Swan, 13201 Burke Road, agreed with the speakers and hoped Council would support the request adding that it would send a strong message to the Board that the Town is in favor of keeping the school open.

#### PUBLIC HEARING CLOSED

Councilmember Kerr suggested Council show their support by providing legal assistance to research the deed restrictions on the property and the possible environmental (CEQA) impact on the closure of the school. He suggested asking the PTA to match expenditures or encourage Bullis to participate in the cost of the consultant.

**MOTION SECONDED AND CARRIED:** Moved by O'Malley, seconded by Fenwick and passed unanimously to authorize the City Manager to reimburse ABC \$5,000 for costs incurred

from invoices submitted by consultant Thomas Griffin for his services to keep Bullis School open.

## 10. PRESENTATIONS FROM THE FLOOR

Duffy Price, 26435 Anacapa Drive, reported that a Los Altos Hills' citizen group, in collaboration with residents from Portola Valley and Woodside, are working to document conservation easements and information about our open space. In the future, they would like to organize an educational forum and she will keep the Council apprised of their progress.

Jitze Couperous, 13680 Page Mill Road, spoke to Council on the value of acquiring a GIS system for the Town as a tool to manage the Town's map system and inventory of Town infrastructure. He hoped Council, staff and residents would create a committee to review this.

Patty Ciesla, 11990 Page Mill Road, supports the GIS data collection system. She added that Santa Clara County is offering free database layer maps.

Jim Abraham, 12831 Viscaino Road, reported on the GIS project he started approximately 9 months ago. He has collected data from Purissima Hills Water District and has data on utility poles. He agreed the GIS program is extremely powerful and very user friendly. Abraham offered his services to continue with this project.

Ginger Summit, 12390 Lennox Way, commented on the emails that she had sent to Council this week asking them to consider adding additional members to the Pathway Committee. Summit noted that additional members would enable the committee to resume monthly guided walks, prepare informational handouts on frequently asked questions about pathways and help to review a new pathways map.

Tom Mandle, 25435 Fremont Road expressed his concern to Council on the impact of the Santa Clara Valley Water District's Adobe Creek project and their plans to remove Burke Road Bridge. Mandle feels this project will create serious issues of flooding for residents. He asked Council to request SCVWD not start the Burke Road Bridge project, scheduled to begin in April 2003, until restrictions downstream at Edith are resolved. Mandle hoped the Town would use any leverage possible, including the courts to delay this work.

Elayne Dauber, 27930 Roble Alto, commented on the Town Historian Rosemary Meyerott's working space in the Heritage House. She noted that Rosemary has no access to the history room because of the crowded conditions. Dauber suggested staff support for the Town Historian and rental of a portable facility for her use.

## 11. PUBLIC HEARINGS

### 11.1 Amendment (Clarification of Wording) to the Town's Zoning Code with Regard to the Basement Definition (Section 10-1.208)

Planning Director Carl Cahill introduced Assistant Planner Debbie Pedro. Pedro explained to Council that the proposed amendment before them clarifies the definition of a basement by requiring that basements must be below “adjoining natural or finish grade, whichever is lower”. This will eliminate the use of backfill to create artificial slopes and unnecessary alteration of natural terrain to bury buildings which otherwise would not qualify as basements. Pedro added since the new basement ordinance came into effect in 2001, Planning staff has encountered misinterpretations of the basement definition by architects and the amendment before Council would help to clarify the definition. She further noted that the Planning Commission discussed and reviewed the proposed amendment during its November 14 and December 12, 2002 meetings and voted unanimously to forward the revised basement definition to the City Council, with a recommendation of approval.

OPENED PUBLIC HEARING  
CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by O’Malley and passed unanimously to waive further reading and introduce the ordinance.

11.2 Lands of Cingular Wireless (Lands of Sarraf) 11997 Hilltop Drive  
(210-02-CUP); A request for a Conditional Use Permit Renewal

Planning Director Cahill introduced the item. He noted for Council that the purpose of requiring periodic reviews for renewals of Conditional Use Permits for wireless communication facilities is to ensure technological changes have not made the equipment installations obsolete. Staff also verifies that there have been no adverse impacts to surrounding areas by their use. Cahill commented that staff is not aware of any complaints regarding this item and staff recommends approval of the renewal.

Mayor Fenwick requested an explanation for the time delay in renewing this Conditional Use Permit. Cahill noted that staff is working to get all of the CUP’s up to date.

OPENED PUBLIC HEARING

Zachary Carter, representing Cingular Wireless, explained that Cingular Wireless is working diligently to bring all renewals up to date and was available to answer any questions of Council.

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by O’Malley, seconded by Kerr and passed unanimously to approve the renewal for the previously approved Conditional Use Permit for Lands of Sarraf, 11997 Hilltop Drive.

11.3 Lands of Swan, 13201 Burke Road (42-02-MISC); A Request for Vacation of a  
Portion of Burke Road Right-Of-Way at 13201 Burke Road (APN 175-37-012) and  
13190 Burke Road (APN 175-37-011)



Planning Director Cahill introduced this item. He explained it was a request from the property owner to vacate an unused right-of-way on his property. Cahill explained there are no streets on this property, the right-of-way exists only on paper and Town has no future plans to construct a street in this location.

#### OPENED PUBLIC HEARING

Les Earnest, 12769 Dianne Drive, stated that the easement is a potential pathway and if Council returns it to the property owner, it will cease to be available as a path.

John Swan, 13203 Burke Road – applicant, presented Council with a historical overview of his request. He added that the easement has never been used as a pathway, is not noted on the 1981 Master Pathway Map and has been walked by the Pathway Committee and deemed inappropriate for a pathway. Swan stated that the vacation of the right-of-way would put his property in conformance with the Town's current setback requirements.

Ginger Summit, 13390 Lennox Way, explained the Pathway Committee's action for not previously requesting the pathway easement. They assumed there was a formal easement. She hoped Council would continue this item until the new Pathway Map Committee reviews the possibility of a path.

#### CLOSED PUBLIC HEARING

Mayor Fenwick requested further clarification of Exhibit B from staff. Staff explained the road bisects the property.

Mayor Pro Tem Cheng added that the path is not shown on the 1981 Master Pathway Map and she supported the applicant's request.

Councilmember O'Malley noted that the easement is not a road and is within seven feet of the applicant's residence.

Following Council discussion, it was determined the Planning Commission had reviewed this request prudently and recommended approval of the vacation.

**MOTION SECONDED AND CARRIED:** Moved by Cheng, seconded by Fenwick and passed unanimously to approve the recommendation of the Planning Commission to vacate a portion of Burke Road right-of-way at 13201 Burke Road and 13190 Burke Road in conformance with the objectives of the Town's General Plan.

#### 12. CLOSED SESSION: Conference with Legal Counsel – Existing Litigation: MacDonald et al. v. Town of Los Altos Hills Case No. CV813186

At the conclusion of the closed session, Council provided direction to staff but no action was taken. Council reconvened into open session at 10:36 p.m.

13. ADJOURNMENT

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to adjourn the meeting at 10:37 p.m.

Respectfully submitted,

Karen Jost  
City Clerk

The minutes of the January 16, 2003 Regular City Council Meeting were approved at the Regular City Council Meeting of February 4, 2003.